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Filing date: **04/30/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	79134752
Applicant	Visy R & D Pty Ltd
Applied for Mark	THERMOTRAC
Correspondence Address	Bradley L. Cohn Pattishall McAuliffe 200 South Wacker Drive Suite 2900 Chicago, IL 60606 UNITED STATES blc@pattishall.com, dm@pattishall.com, sxs@pattishall.com
Submission	Applicants Request for Remand and Amendment
Attachments	Request for Remand THERMOTRAC.pdf(9233 bytes) Request for Reconsideration THERMOTRAC.pdf(20470 bytes) EXHIBIT 1.pdf(493350 bytes) EXHIBIT 2.pdf(196205 bytes)
Filer's Name	DEMETRA MERIKAS
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Date	04/30/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In Re: Visy R & D Pty Ltd.

Serial No.: 79/134,752

Mark: THERMOTRAC

APPLICANT'S REQUEST TO REMAND

Applicant, Visy R & D Pty Ltd., respectfully requests that this application be remanded to the Examining Attorney, so she may consider Applicant's request for reconsideration. As Applicant has addressed all the issues in the Examining Attorney's office action, remand to the Examining Attorney may moot this appeal. Applicant submits that this constitutes good cause for the remand. T.B.M.P. § 1205.01.

I. Background

The Examining Attorney made final her refusal to register Applicant's trademark THERMOTRAC because of concerns with respect to the identification of goods and services in Classes 11, 16, 20, 38 and 42 of the application.

Where necessary, Applicant will amend its identification of goods and services to comply with the Examining Attorney's requirements, though in some instances, Applicant submits its identification of goods and services are acceptable under the U.S. Patent and Trademark Office Acceptable Identification of Goods and Services Manual. Accordingly, Applicant seeks reconsideration so that the Examining Attorney's final refusal be withdrawn.

Attached hereto as Exhibit A is Applicant's Request for Reconsideration.

II. Grounds for Remand

The Board may remand an application to the Examining Attorney to consider an amendment to an application. T.B.M.P. § 1209.04. A party requesting a remand to amend its application must file the request prior to the Board's final decision on the appeal, show that there is good cause for remand, and attach its proposed amendment. T.B.M.P. § 1205.01.

Good cause exists here. Applicant's identification of goods and services should be deemed acceptable as filed or amended, respectively. Accordingly, Applicant respectfully submits that judicial economy would be best served by allowing the Examining Attorney to address Applicant's arguments and amendments, and if the applied-for trademark is not passed to publication, for Applicant to thereafter prepare its Appeal Brief.

III. Conclusion

For the foregoing reasons, Applicant respectfully requests that Application Serial No. 79/134,752 be remanded to the Examining Attorney for reconsideration.

Dated: _____, 2015

Respectfully submitted,

By: _____

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

Bradley A. Cohn
Demetra Merikas
200 South Wacker Drive, Suite 2900
Chicago, IL 60606
Telephone: (312) 554-8000

Attorneys for Applicant

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK: THERMOTRAC
SERIAL NO.: 79/134,752
FILING DATE: May 10, 2013
APPLICANT: Visy R & D Pty Ltd.
EXAMINING ATTORNEY: Laurie Mayes
LAW OFFICE: 101

TO: Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

REQUEST FOR RECONSIDERATION

Applicant respectfully requests that the Examining Attorney reconsider the Final Refusal on the ground that the identification of goods and services for Classes 11, 16, 20, 38 and 42 in the application are acceptable under the U.S. Patent and Trademark Office Acceptable Identification of Goods and Services Manual ("ID Manual"), and comply with the Examining Attorney's requirements, as follows:

Class 11

Applicant submits that it will amend its identification of goods in Class 11 as follows:

Cooling and heating apparatus **for use in** product packaging, storage, fixed refrigeration, and warehousing; **refrigerated and humidity controlled shipping containers** including freighting, trucking, and **primary and secondary packaging and transportation containers**; refrigerators; refrigerated boxes for foodstuffs; refrigerated containers for foodstuffs; apparatus and instruments for cooling foodstuff and beverages in this class, **namely foodstuff and beverage cooling apparatus, and structural** parts and fittings for the aforementioned;

The ID Manual shows that the terms "cooling apparatus" and "heating apparatus", together with a brief description of the purpose of the goods, are acceptable. Exhibit 1. Here, applicant has sufficiently identified the purpose of the cooling and heating apparatus and instruments. Given that applicant's identification of goods is similar to those shown in the ID Manual for other cooling and heating apparatus and instruments, applicant's identification should also be deemed acceptable. In addition, applicant notes that the description "beverage-cooling apparatus" appears in the ID Manual and, thus, applicant's description "foodstuff and beverage cooling apparatus" should also be acceptable.

In the alternative, applicant will amend the Class 11 description to comply with the Examining Attorney's requirements, as follows:

Temperature and humidity controlled cooling and heating portable insulated shipping containers for use in product packaging, storage, fixed refrigeration, and warehousing; **refrigerated and humidity controlled shipping** containers including freighting, trucking, and **primary and secondary packaging and transportation containers**; refrigerators; refrigerated boxes for foodstuffs; refrigerated containers for foodstuffs; apparatus and instruments for cooling foodstuff and beverages in this class, **namely foodstuff and beverage cooling apparatus, and structural** parts and fittings for the aforementioned

Class 16

Applicant amends the Class 16 identification of goods to read as follows:

Paper, cardboard and goods made from these materials, namely, cardboard boxes, paper boxes, **cardboard packaging containers and paper packaging containers**; paper and cardboard boxes made of boxes and **cardboard boxes made from recycled packaging materials**; adhesive coated plastic films for packaging, airtight packaging **containers** of cardboard, paper used for packaging, paper bags for packaging, bubble plastic **wraps, sheets, rolls and packs** for packaging, blown plastic films for packaging, cling plastic film for packaging; corrugated cardboard including for packaging; blister packs; envelopes including for packaging; lining paper for packaging; non-metallic polypropylene foil for packaging; packaging cardboard boxes in collapsible form; packaging boxes of cardboard and paper; packaging containers of regenerated cellulose; **wrappers of plastic**; plastic foil; plastic sheets for humidity control of foodstuff packaging and **plastic** film for packaging; polythene bags for packaging; plastic mesh for

packaging and wrapping; polyvinyl chloride film for wrapping or packaging; protective packaging of plastics, paper and cardboard; tamper evident plastic films and plastic wrappings used on packaging; webs of plastic bubble packs for packaging; paper based business materials, namely, brochures, magazines **and books in the fields of product packaging, packaging solutions, recycling, and product transport**, newspapers; paper based publications, **namely, magazines and journals in the field of product packaging, packaging solutions, recycling, and product transport.**

The ID Manual shows that the term "plastic wrap" is an acceptable identification of goods in Class 16. Exhibit 2. Accordingly, applicant's nearly identical description "wrappers of plastic" should also be acceptable. In the alternative, applicant will amend this description to read **"plastic packaging wrap for commercial or industrial use"**, which is also approved in the ID Manual.

Class 20

Applicant amends the Class 20 identification of goods to read:

Packaging material and products in this class, namely packaging containers of plastic or wood; boxes made of plastics materials for packaging; containers made of plastics for packaging; plastic egg cartons being packaging for commercial use; non-metallic and non-paper containers adapted for packaging beer; non-metallic and non-paper stackable trays for the packaging of materials; commercial packaging containers, namely, plastic and wood packaging boxes in in collapsible form; panels of transparent plastics being parts of **and sold as part of finished plastic packaging containers; plastic inserts for use as container liners for plastic packaging containers**; plastic pots being containers for packaging; transparent **plastic** food containers for commercial packaging use.

Class 38

Applicant amends the Class 38 identification of services to read:

Communication **by electronic computer terminals and providing access to telecommunication networks** services for real-time access to information on product quality, refrigeration, packaging material and integrity, software systems and **on the** integrity of food transportation systems; provision of multiple-user access to a global computer information network for accessing information on product quality, refrigeration, packaging material and integrity, software systems

and integrity of food transportation systems including through an online portal or mobile telecommunication device; telecommunication information, advisory and consultancy services in relation to the aforementioned.

Class 42

Applicant amends the Class 42 identification of services to read:

Design and research services of computer software; design and research services in relation to packaging including product packaging and **design and research services in relation to packaging for goods used in the** storage and transportation of foodstuffs and other perishable goods; product research and development services in relation to the marketing of products including in relation to their product packaging; information, advisory, **support services in the form of a helpdesk**, and consultancy services in relation to all of the aforementioned.

Applicant notes that the Examining Attorney accepted the current identification of goods in Class 9, which shall remain in the application.

For the foregoing reasons, applicant respectfully requests that the Examining Attorney reverse the final refusal and allow the application to pass to publication.

EXHIBIT 1



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Trademark ID Manual



Refine Search: (HEATING APPARATUS)

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Hit No.	Class	Description	Status	Effective Date	Type	Note	TM5
1	010	Medical apparatus, namely, electric heating devices for curative treatment	A	01 Apr 06	G	N	
2	011	Aircraft galleys sold equipped with food preparation apparatus, namely, heating and cooling appliances	A	16 Jul 09	G	N	
3	011	Drying apparatus for use in heating, ventilation systems, air conditioning systems and refrigeration systems	A	23 Dec 10	G	N	
4	011	Electrical induction heating apparatus for heating metal workpieces	A	21 Sep 06	G	N	
5	011	Floor heating apparatus	A	25 Jul 13	G	N	T
6	011	Heat sinks for use in heating, cooling and ventilating apparatus	A	12 Apr 99	G	N	
7	011	Heating apparatus for defrosting windows of vehicles	A	15 Nov 07	G	N	T
8	011	Heating apparatus for vehicles	A	07 Feb 13	G	N	T
9	011	Hot water tanks [heating apparatus]	A	02 Apr 91	G	Y	
10	011	Hot-air space heating apparatus [for industrial purposes]	A	20 Jul 04	G	N	T
11	011	Hot-water space heating apparatus [for industrial purposes]	A	20 Jul 04	G	N	T
12	011	Pavement heating apparatus	A	20 Jul 04	G	N	T
13	011	Peltier cooling and heating apparatus	A	01 Jun 06	G	N	
14	011	Steam heating apparatus [for industrial purposes]	A	20 Jul 04	G	N	T
15	037	Electrical repairs and installation of {indicate specific items, e.g. motors, heating apparatus}	A	02 Apr 91	S	N	
16	040	Rental of space heating apparatus	A	01 May 02	S	N	T
17	042	Remote monitoring services of heating, ventilating and air conditioning apparatus [quality control]	M	09 Aug 12	S	Y	

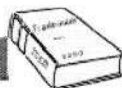
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Hit No.	Class	Description	Status	Effective Date	Type	Note	TM5
1	010	Cooling apparatus used for medical and surgical equipment used during medical and surgical procedures	A	03 Apr 08	G	N	
2	011	Air cooling apparatus	A	15 Nov 07	G	N	T
3	011	Aircraft galleys sold equipped with food preparation apparatus, namely, heating and cooling appliances	A	16 Jul 09	G	N	
4	011	Air-conditioning, air cooling and ventilation apparatus and instruments	A	15 Nov 07	G	N	T
5	011	Beverage-cooling apparatus	M	01 Jan 12	G	Y	T
6	011	Cooling apparatus used for blood, intravenous solutions, irrigation solutions, and other medical and surgical fluids	A	03 Apr 08	G	N	
7	011	Electric space cooling apparatus [for household purposes]	A	20 Jul 04	G	N	T
8	011	Heat sinks for use in heating, cooling and ventilating apparatus	A	12 Apr 99	G	N	
9	011	Industrial cooling apparatus, namely, compax coolers	A	08 Jul 10	G	N	
10	011	Peltier cooling and heating apparatus	A	01 Jun 06	G	N	
11	011	Solar energy based cooling apparatus	A	10 Jan 08	G	N	
12	040	Rental of space cooling apparatus	A	04 Jan 06	S	N	
13	040	Rental of space cooling apparatus for household purposes	A	11 Aug 11	S	N	T

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Hit No.	Class	Description	Status	Effective Date	Type	Note	TM5
1	008	Manually operated hand held tool for the purpose of dispensing plastic wrap around pallets or product for the purpose of shipping, transporting or storage	A	25 Jan 07	G	Y	
2	016	Plastic gift wrap	A	01 Jul 01	G	N	
3	016	Plastic packaging wrap for commercial or industrial use	A	10 Jul 14	G	N	
4	016	Plastic wrap	A	02 Apr 91	G	N	
5	016	Tick identification and removal kit composed primarily of printed educational/information inserts in the nature of a tick identification chart, removal instructions and a symptom record with lists of informational web sites and also including tweezers, magnifying glass, antiseptic wipe, moist wrap, plastic bag and pencil	X	05 Jul 07	G	Y	

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